

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON**

**IN RE DIGITEK®
PRODUCT LIABILITY LITIGATION**

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

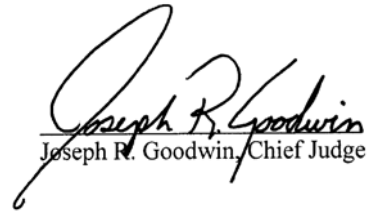
**PRETRIAL ORDER #40
(Order re removal of Group 1 Trial Pool case)**

For reasons appearing to the court, the case of *Ortra Wayne Davis v. Actavis Totowa LLC, et al.*, 2:09-cv-00460 is hereby removed from the Group 1 Trial Pool Cases previously set forth in PTO # 35 dated August 5, 2009.

The court **DIRECTS** the Clerk to file a copy of this order in 2:08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in this district, which includes counsel in all members cases up to and including civil action number 2-09-cv-00993. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system

or the court's website at www.wvsc.uscourts.gov.

ENTER: September 18, 2009



Joseph R. Goodwin, Chief Judge